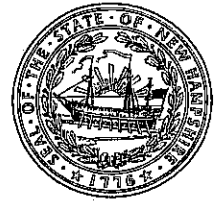




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 5, 2009

The Honorable Mary Beth Walz, Chair
Local and Regulated Revenues Committee
Legislative Office Building, Room 303
Concord, New Hampshire 03301

RE: HB 654-FN, relative to the dam maintenance revolving fund and tax abatements for dam owners

Dear Chairman Walz:

Thank you for the opportunity to provide comments on HB 654-FN.

The bill has two separate and distinct objectives. The first part of the bill provides authorization for the Dam Maintenance Revolving Loan Fund established by RSA 482:55-a to accept revenue from a number of sources, including the general fund, principal and interest from the repayment of loans, grants and awards from the federal government, interest earned from the investment of fund balances, and private gifts.

The Dam Maintenance Revolving Loan Fund was established last year by the Legislature with the enactment of Chapter 272, Laws of 2008, to provide low interest loans to fund the maintenance, repair or reconstruction of privately-owned dams. Operation, maintenance, and rehabilitation of dams can range in cost from thousands to millions of dollars, and owners are responsible for these expenses. In New Hampshire, more than three-quarters of the nearly 3,100 dams in the state are privately owned, and many owners cannot afford these repair costs or the costs of removing these dams. Yet unsafe, privately-owned dams can cause people to lose their lives and they present serious public safety concerns. To address the lack of funding for the repairs of privately-owned dams, the Legislature established the Dam Maintenance Revolving Loan Fund.

Currently the sole source of revenue to this fund is the administrative fines that the Department of Environmental Services levies against dam owners for failure to keep their dams from falling into disrepair or failing to respond to a written order, directive or any notice from the Department of needed maintenance, repair or reconstruction. The proposed bill provides authorization for the fund to accept revenue from other sources, including the general fund, principal and interest from the repayment of loans, grants and awards from the federal government, interest earned from the investment of fund balances, and private gifts. Currently funding is not available from any of these sources. However, funding from some of these sources, such as grants and awards from the federal government, may become available some time in the future. For this reason, the Department of Environmental Services supports this part of the bill.

DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2867 • TDD Access: Relay NH 1-800-735-2964

The second part of the bill provides for an abatement of 50% of the municipal property tax to the owners of dams that create impoundment areas large enough for waterfront homes to be built around their shores, when the property values of such homes are based in part on water frontage or water view.

The appeals of waterfront views and ready access to the water command a premium for properties on New Hampshire's impoundments. According to the Report on the Economic Value of New Hampshire's Surface Waters (2002), the statewide average assessed value per foot of frontage of waterfront property in New Hampshire is approximately \$754, and owners of developed private waterfront property in New Hampshire pay an estimated \$247 million per year in property taxes (2002 estimates).

Of the nearly 3,100 dams in New Hampshire, there are approximately 650 dams with impoundment areas equal to or greater than 10 acres, which is assumed to be large enough for waterfront homes to be built around their shores. The Department of Environmental Services made inquiries to selected dam owners in this group and concluded that local property taxes are not assessed on most of these dams. The only category of dams that appears to be subject to property taxes or payments in lieu of taxes are those dams that have a source of revenue, such as those that produce hydropower. There are 64 hydropower dams in New Hampshire with impoundment areas equal to or greater than 10 acres. Thus, it appears that the bill would provide a tax abatement to only approximately 2% of the dams in the state, all of which have a source of revenue to pay for operation, maintenance and needed repairs. However, granting any abatement would have a negative impact on the revenue of the municipalities in which the dams are located.

Thank you for this opportunity to comment on this bill. Please call either me at 271-3449 or Jim Gallagher at 271-1961, if you have any questions or need additional information.

Very truly yours,

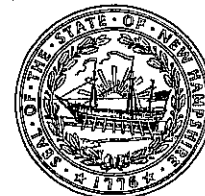


Thomas S. Burack
Commissioner

cc: Representative Peyton Hinkle



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 5, 2009

The Honorable Judith T. Spang, Chairman
Resources, Recreation, and Development
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB 566-FN relative to the regulation of backflow protection technicians

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 566-FN, which would require the Department of Environmental Services (DES) to establish a certification program for individuals engaged for compensation in installing, repairing, maintaining, testing, or surveying backflow protection assemblies in residential and commercial domestic and process water systems. DES supports the underlying objective of this bill, but it does not support the creation of a new certification program for backflow prevention technicians as proposed by HB 566-FN.

Backflow prevention is an essential element of any water system. Currently, installation of backflow prevention devices must be performed by a 'master plumber,' both as defined in the state Plumbing Code, RSA 329-A, and associated administrative rules, Chapter Plu 100. Master plumbers are required to be licensed by the State Plumbing Board, which oversees administration of the state Plumbing Code. A provision in New Hampshire's Safe Drinking Water Act, RSA 485:11, requires that backflow protection assemblies on public water supplies be tested periodically and that faulty devices be repaired under the direction of DES. DES administrative rules, specifically Env-Ws 364 Backflow Prevention, further require that public water systems serving greater than 1000 in population utilize a backflow prevention device inspector certified by the non-profit New England Water Works Association to perform all testing and inspection duties. All of these requirements act to ensure that contaminants in water cannot flow back into a water system through a building service connection.

HB 566-FN would create an entirely new and broader certification program that we believe is unwarranted, in light of the success of the existing programs that regulate plumbing and backflow prevention devices, and the additional costs that would be required for implementation by small (serving 1000 or fewer) water systems not currently covered by the DES rules. DES also does not have the additional resources necessary to manage a new certification program and to expand coverage of its current cross connection control program.

We believe that the problem addressed by HB 566-FN can be accomplished more effectively through improved education of master plumbers and owners and operators of water systems rather than the establishment of a new certification program. We will continue to work with the State Plumbers Board and other water system operator educators in these efforts.

If you have any questions or need additional information, please do not hesitate to call Sarah Pillsbury at 271-1168 or me at 271-3449.

Sincerely,

Thomas S. Burack
Commissioner

cc: Rep. Kurk

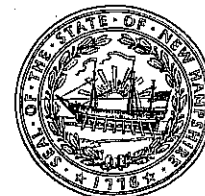
DES Web site: www.des.nh.gov

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-2867 • TDD Access: Relay NH 1-800-735-2964



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
February 5, 2009

The Honorable Naida L. Kaen, Chairman
House Science, Technology, and Energy Committee
Legislative Office Building, Room 304
Concord, NH 03301

Re: HB 229 clarifying the eligibility requirements for Class IV renewable energy generating facilities

Dear Chairman Kaen and Members of the Committee:

The Department of Environmental Services (DES) is pleased to testify in support of House Bill 229 with an amended effective date of January 1, 2010, clarifying the eligibility requirements for Class IV renewable energy generating facilities under the state's renewable portfolio standard per RSA 362-F:4, IV. This bill makes clear that eligible hydroelectric facilities are those that have a total nameplate capacity of 5 megawatts (MWs) and have installed both upstream and downstream fish passages. The bill language preserves what we believe to be the original intent of the legislation.

As you know, DES worked with legislators, stakeholders and the Public Utilities Commission on House Bill 873 establishing minimum renewable standards for energy portfolios, which passed and was adopted as RSA 362-F. During legislative testimony to the Senate Committee on Energy, Environment, and Economic Development on HB 873, DES indicated that Class IV facilities in HB 873 were small hydroelectric facilities with a total capacity of 5 MWs that had both upstream and down stream fish ladders. DES testified that these facilities were identified as warranting economic incentive through the mechanisms in HB 873. Numerous discussions with both House and Senate Committees focused on limiting Class IV facilities to those with fish ladders.

The reference in the final statute (RSA 362-F) to "approved under its FERC license or exemption" was intended to set a high standard for the construction of the required fish ladders. Some have interpreted this language to indicate that fish ladders are only required if they were required by the Federal Energy Regulatory Commission (FERC) license or exemption. DES is concerned that, under this interpretation, a facility could add a substandard structure, claim it to be a fish ladder, and thereby qualify as a Class IV facility. The language in HB 229 is intended to make it clear that eligible Class IV facilities must have actually installed fish ladders that meet the requirements of the applicable FERC license or waiver.

We urge you to pass this legislation to ensure that the original intent of the legislation is preserved. Should you have further questions or need additional information please feel free to contact Robert R. Scott, Director, Air Resources Division (271-1088, robert.scott@des.nh.gov or Joanne Morin, Climate and Energy Program Manager (271-5552, joanne.morin@des.nh.gov).

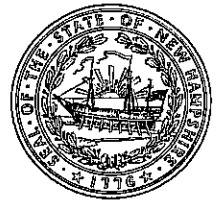
Sincerely,

Thomas S. Burack
Commissioner

cc: HB 229 sponsors



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 5, 2009

The Honorable Judith T. Spang, Chairman
Resources, Recreation, and Development
Room 305
Legislative Office Building
Concord, NH 03301

Re: HB 503, relative to the state's authority to lease submerged land.

Dear Chairman Spang:

Thank you for the opportunity to comment on HB 503, which would support the creation of a Submerged Lands Leasing Program. The Department of Environmental Services (DES) opposes this legislation as written but supports the concept in general of a submerged lands leasing program.

The DES Coastal Program participated on the recent Tidal Energy Commission, HB 694 (Chapter 222, Laws of 2007). In the course of that commission's work, the issue of how to lease or otherwise temporarily allocate the bed of the ocean for a particular activity came to light. While the state has mechanisms for aquaculture and moorings, there is no such mechanism, save the Governor and Executive Council process, for leasing the public trust. The Commission included in its findings a recommendation that the legislature examine how to set up a program to potentially lease areas for activities such as tidal energy production.

HB503 is similar to the enabling legislation that created the Maine submerged lands law. As such, we see a number of problems. First and foremost is the reference to commercial fishing activities. Given the incredible pressure on the New Hampshire fishing fleet, we feel that commercial fishing activities should be exempted from the law. Second, the "reduction factors" are quite confusing. For example, a 0% reduction factor seems, on its face, to provide no reduction at all, while the intention appears to be to reduce the payment. Third, the bill has a broader scope than the issue it seeks to resolve. The breadth is well beyond the problem identified by the Tidal Energy Commission.

If the Committee were to amend this bill, DES recommends that the bill include provisions authorizing: 1) leasing of lands for commercial, non-riparian tidal activities; and 2) leasing of lands for habitat restoration purposes. On the first provision, leasing lands for commercial activities such as tidal or wind turbines, cables, pipelines, outfalls, etc. for commercial gain is a potential source of revenue for the state. These are considered "non-riparian" activities because the structures are not attached to the shore (unlike the construction of a dock or pier, which is a traditional riparian activity). A leasing program will add benefit to the state for those activities (such as tidal energy) which are federally preempted in terms of regulation. Finally, this would apply only to the tidal areas of the state out to the 3 nautical mile extent of the coastal zone and would exempt commercial fishing activities

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The second provision would allow for the exclusive use of underwater areas for habitat restoration. As has been documented throughout the coast, our shellfish and eelgrass populations have been decimated over the past several decades. These animals and plants provide important ecological benefit and many organizations and agencies are trying to restore their health. It has come to our attention that some federal funding sources for this restoration require some certainty through a formal lease or agreement that the submerged lands that are the subject of these restoration activities will not be disturbed by some other use during the period of the activity.

A leasing program that includes these two types of leases would have the added benefit of serving as a central repository for information on activities which occur underwater and out of sight.

The issues presented by HB 503 are complex and will require careful study and debate. DES respectfully recommends that the bill be referred to interim study so that appropriate language can be developed for the next session. DES and its Coastal Program staff would be happy to assist in facilitating meetings among the affected parties to write an amended bill.

Thank you for the opportunity to comment on this legislation. If you have any questions or need additional information, please contact Ted Diers, Coastal Program Manager, or me at 271-2958.

Sincerely,



Thomas S. Burack
Commissioner

Enclosures
TSB/ted

cc: Senator Martha Fuller Clark
Representative James Garrity

STATE OF NEW HAMPSHIRE
PERFORMANCE SUMMARY FORM

MANAGEMENT

Annual ☒ X
Increment ☐
Probationary ☐
Other ☐

Employee: (First) Stephen (MI) (Last) Beyer

Date: January 28, 2009

Class Title: Supervisor V

Work Area: OHSA Consultation Section, PPA Unit

Summary of Performance for (Start Date) March 12, 2008 to (End Date) March 12, 2009

Evaluator: (Name) Sharon Yergeau

(Title) Administrator III

INSTRUCTIONS

The Performance Summary Form is designed to describe an employee's job related performance for a specified period of time. At the beginning of the performance period, a supervisor and an employee should meet to review the employee's class specification and supplemental job description and discuss the performance expectations specific to the position or the work unit to which the employee is assigned.

Supervisors are responsible for clearly communicating their performance expectations so that employees understand how their job performance will be evaluated. During the performance period, communication between the employee and immediate supervisor about the employee's job performance should occur on a regular basis, and the ratings provided in the performance summary should be reflective of this communication.

- Fill out all areas of the form completely and accurately. If a particular area does not apply, please write "N/A".
- Read the explanation of each performance topic carefully. Using the benchmarks provided, mark the employee's level of performance by placing an "x" in the box over the relevant description.
- For each performance topic, please relate your rating to specific examples of performance to share with the employee when you meet with him or her. Comments supporting each rating on the performance appraisal *are required*; moreover, you must provide specific examples of performance if you check boxes in "Below Expectations" or the highest rating available. Prior to meeting with the employee, have your department head review the completed form.
- The employee should review a copy of their Supplemental Job Description, Class Specification and copies of the Domestic Violence in the Work Place Policy and the Sexual Harassment Policy. The employee should then sign the special acknowledgement at the end of the evaluation form.
- Arrange a face-to-face meeting to discuss the employee's performance rating. This meeting should be conducted privately, without interruptions and allow enough time to assure that satisfactory communication has taken place.
- If improvement is required in any area(s), be sure to discuss an action plan that will help assure such improvement. This should include any additional training required, a schedule of periodic meetings to check progress as well as specific details about expected performance. It is required that you put such details in writing and attach them to this form.
- At the end of the meeting, the employee should sign the form to acknowledge that the meeting took place. There is also room for the employee to write any comments.

PERFORMANCE LEVELS:

BELOW EXPECTATIONS: The employee must improve in the area in order to meet the supervisor's expectations for satisfactory performance. It should always be accompanied by a plan for the employee and supervisor to work together to bring performance up to a satisfactory level in an appropriate amount of time. If performance is jeopardizing employment, the employee should also be given a letter of warning. Contact your Human Resource Office for further information.

MEETS EXPECTATIONS: The employee has met the requirements of the position. This does not relate to what the supervisor thinks the individual may be capable of, but rather it is specifically related to the way the individual performed the job duties or accountabilities of that position.